

CITY OF TAKOMA PARK, MARYLAND

**PRESENTATION, SPECIAL SESSION & WORKSESSION
OF THE CITY COUNCIL
(Adopted September 12, 2005)**

Monday, June 20, 2005

OFFICIALS PRESENT:

Mayor Porter	City Manager Matthews
Councilmember Austin-Lane	Deputy City Manager Hobbs
Councilmember Barry	Community and Government Liaison Ludlow
Councilmember Elrich	City Clerk Carpenter
Councilmember Mizeur	Housing and Community Development Director Daines
Councilmember Seamens	Finance Director Brooks
Councilmember Williams	

The Council convened at 7:39 p.m. in the Council Chambers of the Municipal Building, 7500 Maple Avenue, Takoma Park, Maryland.

COUNCIL COMMENTS

Ms. Austin-Lane commented on the status of the WMATA sales contract with the developer for the Takoma Metro green space. She requested that the City file a FOIA request to procure a copy of the sales agreement as soon as possible. Ms. Austin-Lane also encouraged the City to work to ensure that the required public hearing is held before FTA approval of the contract.

Mr. Williams commented on the Annual Regional Report of the Greater Washington Initiative.

In response to a request from Mr. Williams, City Manager Matthews reported on her contact with Mr. Bill Vargas, Assistant Attorney General, concerning a question raised about whether there was a violation of the Open Meetings Act during Council's recent vote to convene as the Stormwater Management Board during a Council meeting. Mr. Vargas' advice was that notice of the Council meeting is required, but no separate notice is required for the convening as the Stormwater Management Board and Council's action was not a violation of the Act. In the future, staff will reference on the agenda that the Council will be acting as the Stormwater Board. Ms. Matthews noted that the City Attorney has also provided an opinion about the issue.

Ms. Austin-Lane noted a recent response from CSX concerning their security plans for transport of hazardous materials. She requested that the City prepare a FOIA request to obtain the documents.

Ms. Austin-Lane commented on a meeting with the Maple Avenue neighborhood concerning the speed bumps. The residents are generally satisfied. She noted that Council granted an exception on the speed bump replacement on Maple Avenue. They are not an exception from the City Code, as they are four inches high. Further changes may be requested on the 7100 block of Maple Avenue. Residents have signed a petition.

PUBLIC COMMENTS

There were no public comments.

PRESENTATION

The agenda was reordered.

2. FY04 Audit

Keith Novak, Partner, Clifton Gunderson made the presentation. He noted that the auditor's responsibility under generally accepted accounting standards is to ensure that the financial statements are reasonably stated. Assumptions and estimates were reviewed with regard to judgments, allowance for bad debt, depreciation, etc. There were a number of audit adjustments, including a reduction in revenue. There were no uncorrected mis-statements. The auditors had no disagreements with management. Management did not consult with other accountants. The only difficulty encountered was that the audit began very late.

Mr. Novak commented on the Management Letter. He commented that this is the first time in his recollection that we have been late or significantly late with the November 1 deadline of the State Legislative Audit Office. There are three comments:

1) The employee who enters time and leave records also has access to the payroll master file and performed bank reconciliation of payroll. This is a serious weakness which can creep in over time in a small organization. The auditors recommend that the duties be segregated.

2) During the year, the individual running the Finance Department did not have the background or knowledge necessary. As a result, the auditors could not get started until February of 2005. The June 2004 bank reconciliations were not completed until February 2005. They should be done as quickly as possible. Once management became aware of the problem, in the summer and fall, they took immediate steps to get caught up. Once you fall behind, the problem snowballs. The auditors recommend that the City review the duties and responsibilities of the Finance Department. The Treasurer should look at personnel to ensure that the right people are in the right places.

3) During the 2004 audit, there was a \$237,000 reimbursement to special revenue. Over the years, grants can fall through the cracks if you don't have one person monitor to ensure that deadlines are met. Grants must be monitored properly.

Ms. Matthews noted the combination of the positions of City Clerk and Treasurer. The structure did not work and Council authorized the City Manager to break the positions apart again. Ms. Yovonda Brooks is now on staff as Finance Director. The Council was understanding and honored the City Manager's request to bring back the former treasurer to get caught up. Ms. Matthews thanked Linda McKenzie for her efforts in that regard.

Ms. Austin-Lane said she is appreciative to the City Manager for being proactive on this. Council was not aware of the depth of the problem. Ms. Austin-Lane said she feels somewhat regretful that when this issue came up, Linda McKenzie was not completely embraced in the public meeting. Ms. Austin-Lane noted her appreciation for what Ms. McKenzie has done.

Ms. Matthews thanked the auditors. She commented that segregation of duties can be challenging for a small organization. People wear a lot of hats. Staff is in the process of implementing the required changes. Someone outside the Finance Department will be responsible for doing payroll master file changes. Management will be looking at staffing issues. The grants position that had been in HCD was eliminated. Each department is typically primarily responsible for reporting on grants. Finance is to keep track of filing deadlines, to provide the checks and balances.

Ms. Mizeur commented that this puts to rest a lot of questions that residents had. She said she is comfortable that we are under good management at this point.

Mr. Seamens thanked City Manager Matthews for her efforts to get the Finance Department back in shape.

Ms. Matthews said that Ms. McKenzie deserves much credit. She thanked Deputy Manager Hobbs for acting to provide day to day management of the Finance Department during the interim period.

In response to a question from Mr. Seamens about why the audit took so long, Mr. Novak said the process started late. The financial records were not in good enough shape to review. It was substantially completed by March 15 but the firm had schedules and deadlines in place for other projects.

Mr. Seamens commented that Council has been reassured in the past that this has been taken care of. He asked how we can do a better job of oversight of the Finance Department. How can we ensure this doesn't happen again? He asked Ms. Brooks if she needs more resources.

Ms. Brooks said she is working to bring the books up to date. She said she could use more resources.

Ms. Matthews said her hope is that as Ms. Brooks identifies what she needs, she will request assistance from the City Manager.

Ms. Porter asked what is being proposed as the best way to oversee grants.

Mr. Elrich commented that it is a broader issue than what happens in the Finance Department. The key is the department heads.

Ms. Matthews said the primarily responsibility is with department heads. The Finance Department is acting as a check and balance.

Ms. Matthews gave a brief overview of the financial statements.

Mr. Williams asked how difficult would it be to have a flow chart that shows flow, as we talk about fund balances and how they shift in the context of the overall budget.

Ms. Matthews said she provided the Council with a breakdown of the fund balance. She said she can provide the information requested in a published budget.

Mr. Elrich requested that details be included as to how the funds are restricted.

Ms. Austin-Lane asked if there is any way to redress the \$237,000 not reimbursed by Montgomery County.

Ms. Matthews said no. Due to timing issues, there were some projects the City was not able to receive reimbursement for.

1. Update on the Community Center Construction Project

Ms. Matthews provided information on proposed change orders (memo attached).

Council discussed briefly the replacement of the air handler in the basement area and whether it is legitimately more of a maintenance item.

Ms. Porter asked about the cracks in the back wall of the building. Ms. Matthews agreed to follow up on this.

Ms. Austin-Lane thanked the City Manager for the recent walk through of the construction area. Council was able to see the construction site and areas completed. Ms. Austin-Lane said she would like to revisit the issue of the skylight and the fans and understand more fully how much we saved by value engineering this out.

Ms. Matthews commented that there was a bid alternate on this item. The most recent number was back in September or October, for approximately \$130,000. There has been a progression of work in that area and I am not sure you could still do it for that price. We would have to have specs drawn up and put out on the street. Much work has been done since that estimate.

Mr. Seamens said he sees a high priority for the elevator. There is a problem with accessibility.

Tom Gagliardo, resident, questioned what is in the building, what is the total cost, and what does the additional \$350,000 from the State to be used for if it cannot be used to reduce the bond.

Ms. Porter said we will know when we get final numbers on the change orders . Council will look at it at that time.

Ms. Austin-Lane said that in the last couple of weeks Council discussed that we have new bids. What we are finding is that we may not have enough money. If we need additional money, we will not borrow it.

Mr. Elrich noted that the PCOs continue to come in. We can reject them, but it doesn't mean we won't pay them. It's hard to say whether we are short. When we looked at the bids, there was no money for the bid alternates. It will stay in flux on a daily or weekly basis.

SPECIAL SESSION

3. Resolution Appointing the Takoma Park Poet Laureate

Sandra Grady of the Arts and Humanities Commission introduced Donald Berger as the Poet Laureate. She noted that eight candidates were interviewed.

Mr. Berger said he is thrilled and honored. He thanked the selection committee, the Arts and Humanities Commission, Ms. Daines, and the City Council. He said he has spoken to several writers about this program. They were impressed and awed that a city would do this. Mr. Berger said he has a lot of ideas and thinks this will be a lot of fun.

Motion by Williams; second by Austin-Lane.

Ms. Porter noted that the \$1000 stipend will be paid from the Arts and Humanities Commission budget.

Resolution 2005-48 was adopted (VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Mizeur, Seamens, Williams).

Resolution 2005-48 (Attached)

4. Resolution Endorsing the M-NCPPC Proposed Facility Plan for Takoma Piney Branch Park

Ms. Ludlow commented that the facility plan has been presented here several times and discussed with the community many times. On June 6, Park and Planning had their final plan

review. Very small changes have been incorporated. Because of the recommendations of Grant Avenue residents about the Darwin Avenue entrance to the parking lot, the amount of impervious surface has been reduced. Asphalt and pea gravel will be used that allow a more direct way to a series of steps and reduces amount of impervious surface. The proposal is to be as green as possible. Park and Planning staff looked very carefully at the safety plan. They are hesitant about managing it and have not determined whether they want to recommend it to the Planning Board.

Motion by Elrich; second by Barry.

Mr. Elrich commented that parents are interested in contributing to funding for the skateboard park.

Mr. Seamens requested that staff let Council know when there is a need for community support for the skateboard park.

Ms. Ludlow said that Park and Planning has determined that they are lacking in skateboard parks, but they are nervous about function and supervision.

In response to a question from Ms. Mizeur, Ms. Ludlow said the City had believed there would be a grant to fund the skateboard park, but the grant didn't come through.

Ms. Mizeur said we should make it clear that we are requesting that Park and Planning fund the skateboard park.

Ms. Austin-Lane said we should be clear that any capital costs would be funded by Park and Planning. We want it to be clear to the public that we are not entertaining that we build the park. We don't want it to look like we're leaving the door open to that. It sounds like they have some really large barriers about getting a skatepark in Silver Spring. We've laid the groundwork on this.

Wayne Sherwood, Grant Avenue, spoke in favor of the resolution. There has been a lot of discussion with the neighborhood. We've send e-mails to the County and the City in support of this. Let us know if you need additional support. We have suggested that the Maple Avenue access be improved.

Ms. Ludlow noted the small strip of land by the school, which is owned by Park and Planning. It is too steep to be an access. They are trying to minimize erosion in the area. Ms. Ludlow described other entrances to the park.

Resolution 2005-49 was adopted (VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Mizeur, Seamens, Williams).

Resolution 2005-49

(Attached)

5. Resolution Supporting the Issuance of an Alcoholic Beverage License for the Middle Eastern Cuisine and Market

Motion by Austin-Lane/second by Williams.

Resolution 2005-50 was adopted (VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Mizeur, Seamens, Williams).

**Resolution 2005-50
(Attached)**

6. Resolution Ratifying a Collective Bargaining Agreement with Local 400, Representing Police Officers in the Grade of Corporal or Lower

Mr. Hobbs explained that the resolution

Motion by Elrich; second by Williams.

Mr. Hobbs said he will come back to Council after the first of the year to discuss take home cars and an opener to discuss provision of health and welfare for retirees.

Mr. Seamens thanked Mr. Hobbs for representing the City well. As we have had trouble staffing the police positions, has there been discussion of signing bonuses.

Mr. Hobbs commented that there are signing bonuses in place. Every agency in the area has had dramatic shortages.

Resolution 2005-51 was adopted (VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Mizeur, Seamens, Williams).

**Resolution 2005-51
(Attached)**

7. First Reading Ordinance Adopting the FY06 Police Pay Plan Pay Plan

Motion by Elrich; second by Williams.

Ordinance 2005-19 was accepted at first reading (VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Mizeur, Seamens, Williams).

Ordinance 2005-19

(Attached)

8. Single Reading Ordinance Authorizing a Contract with AETNA for Employee Health Insurance

Mr. Hobbs said by taking all our business to one company, the City will save \$73,000.

Motion by Austin-Lane; second by Barry.

Ms. Porter asked if this requires us to stay with AETNA.

Mr. Hobbs said no.

Ordinance 2005-20 was adopted by roll-call vote (VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Mizeur, Seamens, Williams).

**Ordinance 2005-20
(Attached)**

9. Second Reading Ordinance Authorizing FY05 Budget Amendment No. 2

Ms. Matthews described the budget amendment.

In response to a question from Mr. Williams, Ms. Matthews said the City had made a decision to fund certain street improvements with CDBG funds. The amount previously appropriated to fund street improvements was transferred to the Community Center Fund. This was not the only year where the City reallocated these funds.

Mr. Seamens commented on transfers of funds between fund accounts in the General Fund. If you move money from one account to another, you don't require authorization to do that.

Ms. Matthews responded that, for example, with legal services, there is no transfer made. We report that the account exceeds its budget.

Motion by Williams; second by Austin-Lane.

Ordinance 2005-18 was adopted by roll-call vote (VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Mizeur, Seamens, Williams).

**Ordinance 2005-18
(Attached)**

10. Resolution Authorizing Program Open Space FY06 Allocation

Ms. Ludlow commented that the City has been notified that we have an allotment for FY06, when every indication was that there would not be additional POS money. Montgomery County received more than expected. The City has been allocated \$149,824. The purchase of Poplar Mill and Sligo Mill property payment is \$27,500. There is no park development plan ready to go for FY06, the next will be FY07. If we use the remaining funds for a park project, we would need a 25% match from our general fund. In the past 2 years, we have been awarded funds for some of the recreation space of the community plaza level. We have room to ask for a larger allotment. We are proposing \$122,324 to be used toward recreation space on this level. We should hear by July or August.

Mr. Williams commented on the City's repayment agreement for the Sligo and Poplar Mill property. He noted that the FY06 budget had no expenditure for this because we expected no POS funds. There was no anticipation that we would fund it otherwise.

In response to comments from Mr. Seamens about repaying the money, Ms. Ludlow said if there is no Program Open Space allocation, or if the program were disbanded, the City would have no obligation to repay the money.

Motion by Austin-Lane; second by Mizeur.

Ms. Ludlow noted that the use of the allocation can be amended later.

Ms. Austin-Lane said there is a lot of interest in the boundary stone project. She said she would like the project to be explored.

Sabrina Baron, President, Historic Takoma, commented that maintenance is needed for the Thomas Sigler Carriage House. Lighting, gutters and grading should all be considered. She asked if the garden is a candidate for use of the funding.

Ms. Ludlow said these funds are not normally to be used for maintenance. She noted the issue may be whether we want to have the funds available for the Community Center Community Plaza Level. She noted that any project would require a 25% match from the City. If we choose one of these other projects, Council would have to determine where our matching funds would come from.

Resolution 2005-52 was adopted (VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Mizeur, Seamens, Williams).

**Resolution 2005-52
(Attached)**

BREAK

The Council recessed for a scheduled break at 10:04 p.m. and reconvened in Worksession.

WORKSESSION

11. Discussion of Process for Selection and Appointment of Ward 2 Councilmember to Fill the Unexpired Term Ward 2 Council Seat

Ms. Mizeur said she has consulted with Ward 2 residents. There is an overwhelming interest in having the Council not be “kingmakers.” She said she knows of three or four individuals who may be interested in running for the seat. She asked Council to not bias the election the selecting someone interested in running for the seat in November.

Ms. Porter commented that she was appointed in her first term. At that time there was a year left in the term and Council decided to open it up. The difference here is the short time remaining in the term. Ms. Mizeur’s suggestion makes sense; it sends the message that the Council is not trying to bias the election.

Mr. Williams agreed. Council is required to make an appointment within 60 days of the vacancy. We are looking at only two months remaining in the term. Council will need to do public notice of the vacancy and have people come in for interviews. We do not need a long involved process.

Mr. Seamens asked if there would be a binding agreement that the person would not run for office in November.

Ms. Mizeur said she is not suggesting that.

There was Council consensus in trying to appoint someone who does not wish to run for the seat in November, and to hold an open interview process which would allow people who want to be considered to come to Council for an interview after submitting a letter of interest and resume. Interviews were scheduled to be held on July 11 and 18. Council will make the appointment on July 18.

12. Discussion of Use of Paper Ballots in the November 2005 City Election

Mr. Elrich commented that using paper ballots would be consistent with our position on the State’s touchscreen voting machines. He noted he would like to hold future discussion on a charter change to allow instant runoff voting.

Linda Schade and Rob Ritchie were present for the discussion.

Mr. Ritchie commented on other communities’ experience with paper ballots. He also spoke in support of instant runoff voting.

Mr. Williams proposed that Council adopt the use of paper ballots for the November election and take some portion of the cost savings to increase compensation for election judges.

Mr. Seamens supported the concept but requested more information on the fiscal impact.

Ms. Porter said the plan hinges on getting an adequate number of election judges.

Ms. Mizeur asked for a recommendation on what the ballot would look like and asked how mismarked ballots will be handled.

Sue Wheaton, resident, spoke in favor of paper ballots and instant runoff voting.

ADJOURNMENT

The Council adjourned for the evening at 11:25 p.m.